

# HOUSE BILL No. 1694

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-46-3.

**Synopsis:** Equine cruelty. Makes depriving a horse or other equine animal of necessary food or water a Class A misdemeanor if the deprivation results in severe malnutrition, severe dehydration, or the death of the animal, and increases the penalty to a Class D felony for a second or subsequent offense. Permits a court to permanently prohibit a person convicted of equine cruelty from possessing an equine animal, makes the knowing or intentional violation of a court order prohibiting a person from possessing an equine animal a Class D felony, and increases the penalty to a Class C felony for a second or subsequent offense.

**Effective:** July 1, 2007.

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**Smith M, Battles, Ruppel,  
Cheatham**

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January 26, 2007, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1694

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-46-3-6 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) This section does  
3 not apply to a violation of section 1 of this chapter.

4 (b) Any law enforcement officer or any other person having  
5 authority to impound animals who has probable cause to believe there  
6 has been a violation of this chapter or IC 15-5-12-3 may take custody  
7 of the animal involved.

8 (c) The owner of an animal that has been impounded under this  
9 section may prevent disposition of the animal by an animal shelter that  
10 is caring for the animal by posting, not later than ten (10) days after the  
11 animal has been impounded, a bond with the court in an amount  
12 sufficient to provide for the animal's care and keeping for at least thirty  
13 (30) days, beginning from the date the animal was impounded. The  
14 owner may renew a bond by posting a new bond, in an amount  
15 sufficient to provide for the animal's care and keeping for at least an  
16 additional thirty (30) days, not later than ten (10) days after the  
17 expiration of the period for which a previous bond was posted. If a

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bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter or IC 15-5-12-3, the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or IC 15-5-12 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-5-12 has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, and the return of any bond posted by its owner.

(e) This subsection applies only to livestock animals. Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-2.1-2-50 or the state veterinarian's designee to:

- (1) investigate the condition of the animal and the circumstances relating to the animal's condition; and
- (2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

- (1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.
- (2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

- (1) shall give substantial weight to; and
- (2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or IC 15-5-12, the court may impose the following additional penalties against the person:

- (1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period

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of impoundment authorized under subsection (b).

(2) An order terminating the person's right to possession, title, custody, or care of an animal that was involved in the offense.

**(3) If the person was convicted of equine cruelty under section 14 of this chapter, an order permanently prohibiting the person from possessing, caring for, or having custody of an equine animal (as defined in section 14 of this chapter).**

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

SECTION 2. IC 35-46-3-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. (a) As used in this section, "equine animal" means a horse, mule, burro, ass, or other member of the equine species.**

**(b) A person who, having the custody of an equine animal:**

**(1) knowingly, intentionally, or recklessly fails to provide the equine animal with necessary food or water; and**

**(2) as a result of the conduct described in subdivision (1), causes the equine animal to suffer severe malnutrition, severe dehydration, or death;**

**commits equine cruelty, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.**

**(c) A person who, having been prohibited from possessing, caring for, or having custody of an equine animal by a court order issued under section 6(h) of this chapter, knowingly or intentionally possesses, cares for, or has custody of an equine animal commits unlawful possession of an equine animal, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction for unlawful possession of an equine animal under this subsection.**

SECTION 3. [EFFECTIVE JULY 1, 2007] **IC 35-46-3-14, as added by this act, applies only to crimes committed after June 30, 2007.**

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